

GOVERNMENT

SIKKIM



GAZETTE

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

Gangtok

Saturday 3rd July, 2010

No. 314

**LAW DEPARTMENT
GOVERNMENT OF SIKKIM
GANGTOK**

No. 1/LD/RP/2010

Date: 1.7.2010

NOTIFICATION

The Notification which has been published in the Gazette of India Extra Ordinary, Part II-Section 3 dated December 23rd, 2009 is hereby republished for general information:-

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 23rd December, 2009/ Pausa 2, 1931 (Saka)

The following Act of Parliament received the assent of the President on 22nd December, 2009 and is hereby published for general information:-

THE WORKMEN'S COMPENSATION (AMENDMENT) ACT, 2009

(AS PASSED BY THE HOUSES OF PARLIAMENT—

LOK SABHA ON 25TH NOVEMBER, 2009

RAJYA SABHA ON 1ST DECEMBER, 2009)

THE WORKMEN'S COMPENSATION (AMENDMENT) ACT, 2009

(AS PASSED BY THE HOUSES OF PARLIAMENT)

AN

ACT

further to amend the Workmen's Compensation Act, 1923.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

**Short title
and
commencement.**

1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 2009.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

- Amendment of long title.** 2. In the long title to the Workmen's Compensation Act, 1923 (hereinafter referred to as the principal Act), for the word "workmen", the word "employees" shall be substituted.
- Amendment of preamble.** 3. In the principal Act, in the preamble, for the word "workmen", the word "employees" shall be substituted.
- Amendment of section 1.** 4. In section 1 of the principal Act, in sub-section (1), for the word "Workmen's", the word "Employee's" shall be substituted.
- Substitution of references to certain expressions by certain other expressions.** 5. Throughout the principal Act, for the words "workman" and "workmen", wherever they occur, the words "employee" and "employees" shall respectively be substituted, and such other consequential amendments as the rules of grammar may require shall also be made.
- Amendment of section 2.** 6. In section 2 of the principal Act, in sub-section (1),—
- (i) after clause (d), the following clause shall be inserted, namely:—
'(dd) "employee" means a person, who is —
 - (i) a railway servant as defined in clause (34) of section 2 of the Railways Act, 1989, not permanently employed in any administrative 24 of 1989. district or sub- divisional office of a railway and not employed in any such capacity as is specified in Schedule II; or
 - (ii) (a) a master, seaman or other member of the crew of a ship, (b) a captain or other member of the crew of an aircraft,
(c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,
(d) a person recruited for work abroad by a company, and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India; or
 - (iii) employed in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to any employee who has been injured shall, where the employee is dead, include a reference to his dependants or any of them;
 - (ii) clause (n) shall be omitted.
- Amendment of section 4.** 7. In section 4 of the principal Act,—
- (a) in sub-section (1),—
 - (i) in clause (a), for the words "eighty thousand rupees", the words "one lakh and twenty thousand rupees" shall be substituted;
 - (ii) in clause (b), for the words "ninety thousand rupees", the words "one lakh and forty thousand rupees" shall be substituted;
 - (iii) after clause (b), the following proviso shall be inserted, namely:
"Provided that the Central Government may, by notification in the Official Gazette, from time to time, enhance the amount of compensation mentioned in clauses (a) and (b)";
 - (iv) after clause (b), the *Explanation II* shall be omitted;

(b) after sub-section (1A), the following sub-section shall be inserted, namely:—

“(1B) The Central Government may, by notification in the Official Gazette, specify, for the purposes of sub-section (1), such monthly wages in relation to an employee as it may consider necessary”;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The employee shall be reimbursed the actual medical expenditure incurred by him for treatment of injuries caused during the course of employment”;

(d) in sub-section (4),—

(A) for the words “two thousand and five hundred rupees”, the words “not less than five thousand rupees” shall be substituted;

(B) the following proviso shall be inserted, namely:—

“Provided that the Central Government may, by notification in the Official Gazette, from time to time, enhance the amount specified in this sub-section.”.

Amendment of section 20.

8. In section 20 of the principal Act, in sub-section (1), after the words “appoint any person”, the words “who is or has been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or a pleader or is or has been a Gazetted Officer for not less than five years having educational qualifications and experience in personnel management, human resource development and industrial relations” shall be inserted.

Insertion of new section 25A.

9. After section 25 of the principal Act, the following section shall be inserted, namely:—

Time limit for disposal of cases relating to compensation.

“25 A. The Commissioner shall dispose of the matter relating to compensation under this Act within a period of three months from the date of reference and intimate the decision in respect thereof within the said period to the employee.”.

Amendment of Schedule II.

10. In Schedule II to the principal Act,—

(i) for the word, figures, brackets and letter “section 2(1)(n)”, wherever they occur, the word, figures, brackets and letters “section 2(1)(dd)” shall be substituted;

(ii) in item (1), for the words “employed, otherwise than in a clerical capacity or on a railway”, the words “employed in railways” shall be substituted;

(iii) in item (ii), the words “otherwise than in a clerical capacity” shall be omitted;

(iv) in item (iii), the words “wherein or within the precincts whereof twenty or more persons are so employed” shall be omitted;

(v) in item (v), the words “other than clerical work” shall be omitted; (vi) in item (vi),—

(a) clause (b) shall be omitted;

(b) in clause (c), the words, brackets and letter “or sub-clause (b)” shall be omitted;

(vii) in item (x), the words “otherwise than in a clerical capacity” shall be omitted;

(viii) in item (xiv), the words “otherwise than in a clerical capacity” shall be omitted;

- (ix) in item (xvi), the words "in which on any one day of the preceding twelve months more than twenty-five persons have been employed" shall be omitted;
- (x) for item (xviii), the following item shall be substituted, namely:—
 - "(xviii) employed on any estate which is maintained for the purpose of growing cardamom, cinchona, coffee, rubber or tea; or";
- (xi) in item (xix), the words "otherwise than in a clerical capacity" shall be omitted;
- (xii) in item (xxvi),—
 - (a) in clause (a), the words "and in which on any one day of the preceding twelve months ten or more persons have been so employed" shall be omitted;
 - (b) in clause (b), the words "in which on any one day of the preceding twelve months fifty or more persons have been so employed" shall be omitted;
- (xiii) in item (xxx), the words "otherwise than in a clerical capacity" shall be omitted;
- (xiv) in items (xl) and (xli), the words "in which on any one day of the preceding twelve months more than twenty-five persons have been employed" shall be omitted;
- (xv) the *Explanation* occurring after item (xlix) at the end shall be omitted.

V.K. BHASIN
Secy. to the Govt. of India

R.K. PURKAYASTHA
LR-cum-Secy
Law Department

File No. 11/ (256) LD/RP/2010